

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

USCOC of New Hampshire RSA #2, Inc.

v.

Case No. 05-cv-327-PB

Town of Bow

NOTICE OF RULING

**Re: Report and Recommendation (Doc. No. 37) re: Motion
to Intervene (Doc. No. 7)**

Ruling: The procedural posture of the case is somewhat confused. I assume that what I am being asked to decide is whether the Magistrate Judge has the power to decide a motion to intervene in a case where the parties to the action have consented to his jurisdiction but the proposed intervenor does not. On this question, reviewing the matter *de novo*, I agree with the Seventh Circuit that the answer to the question is yes. If, instead, the Magistrate Judge is asking me to rule on a Report and Recommendation recommending that the motion to intervene be allowed, I review the matter *de novo* and agree that the motion should be allowed. In any event, the case is returned to the Magistrate Judge.

/s/Paul Barbadoro
Paul Barbadoro
U.S. District Judge

Date: September 6, 2006

cc: Counsel of Record